

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
CRIMINAL DIVISION  
VENUE: SAN FRANCISCO

FILED  
2010 FEB 11 P 3:57  
RICHARD W. WILKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
v.

MICHAEL OHAYON

**CR10**

**0105**

**CRB**

DEFENDANT.

## INDICTMENT

18 U.S.C. § 1349- Conspiracy to Commit Bank Fraud  
18 U.S.C. § 1344- Bank Fraud  
18 U.S.C. § 1957-Engaging in Monetary Transactions  
in Criminally Derived Property  
18 U.S.C. § 2- Aiding and Abetting

A true bill.

Lynda Benjamin  
Foreman

Filed in open court this 11 day of

February, 2010

**ISSUE SUMMONS**

Clerk

[Signature]  
Bail

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UNITED STATES OF AMERICA,  
v.

DAVID PAPER

**CR10**

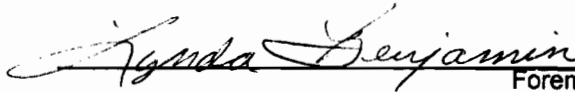
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Clerk

**Brenda Tolbert**

## ISSUE SUMMONS

Bail, \$

  
Maria Elena James  
United States Chief Magistrate Judge

FILED PER 18 U.S.C. 3170

## DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ INFORMATION ☒ INDICTMENTMatter Sealed: ☐ Juvenile ☐ Other than Juvenile
☐ Pre-Indictment Plea ☐ Superseding ☐ Defendant Added  
☐ Indictment ☐ Charges/Counts Added  
☐ Information

Name of District Court, and/or Judge/Magistrate Location (City)

UNITED STATES DISTRICT COURT San Francisco  
DISTRICT OF Northern California Divisional OfficeName and Office of Person  
Furnishing Information on  
THIS FORM ☐ U.S. Atty ☐ Other U.S. Agency  
Phone No.Name of Asst.  
U.S. Attorney  
(if assigned) Tracie L. Brown

## PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)  
Federal Bureau of Investigation☐ person is awaiting trial in another Federal or State Court  
(give name of court)☐ this person/proceeding transferred from another district  
per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges  
previously dismissed which were  
dismissed on motion of:☐ U.S. Atty ☐ Defense☐ this prosecution relates to a  
pending case involving this same  
defendant. (Notice of Related  
Case must still be filed with the  
Clerk.)☐ prior proceedings or appearance(s)  
before U.S. Magistrate Judge  
regarding this defendant were  
recorded underSHOW  
DOCKET NO.MAG. JUDGE  
CASE NO.Place of  
offense

County

CASE NO.

USA vs.

Defendant: Michael Ohayon

Address:

CR10

0105 CRB

☐ Interpreter Required Dialect:Birth  
Date☐ Male☐ Alien☐ Female (if applicable)

Social Security Number

## DEFENDANT

Issue: ☐ Warrant ☒ Summons

Location Status:

Arrest Date or Date Transferred to Federal Custody

☐ Currently in Federal Custody☐ Currently in State Custody☐ Writ Required☐ Currently on bond☐ Fugitive

Defense Counsel (if any):

☐ FPD☐ CJA☐ RET'D☐ Appointed on Target Letter☐ This report amends AO 257 previously submitted

## OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 6

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Count(s)
	18 U.S.C. § 1349 (4)	Conspiracy to Commit Bank Fraud	1
	18 U.S.C. § 1344 (4)	Bank Fraud	2-4
	18 U.S.C. § 1957 (4)	Engaging in Monetary Transactions in Criminally Derived	5-6
		Property	
	Please see Attachment A for penalties		

ATTACHMENT A

CR10 -0105

CRB

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NORTHERN DISTRICT OF CALIFORNIA

Penalty:

Count One: 30 years Imprisonment, \$ 1,000,000 Fine, 5 years Supervised Release,  
\$ 100 Special Assessment.

Counts Two-Four: 30 years Imprisonment, \$ 1,000,000 Fine, 5 years Supervised Release,  
\$ 100 Special Assessment.

Counts Five-Six: 10 years Imprisonment, \$ 250,000 Fine, 3 years Supervised Release,  
\$ 100 Special Assessment.

PER 18 U.S.G. 3170

## DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ INFORMATION ☒ INDICTMENTMatter Sealed: ☐ Juvenile ☐ Other than Juvenile
☐ Pre-Indictment Plea ☐ Superseding ☐ Defendant Added  
☐ Indictment ☐ Charges/Counts Added  
☐ Information

Name of District Court, and/or Judge/Magistrate Location (City)

 UNITED STATES DISTRICT COURT San Francisco  
 DISTRICT OF Northern California Divisional Office
Name and Office of Person  
Furnishing Information on  
THIS FORM

JOSEPH P. RUSSONIELLO

☐ U.S. Atty ☐ Other U.S. Agency  
 Phone No. \_\_\_\_\_
Name of Asst.  
U.S. Attorney  
(if assigned)

Tracie L. Brown

## PROCEEDING

Name of Complainant Agency, or Person (&amp; Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court  
 (give name of court) \_\_\_\_\_

☐ this person/proceeding transferred from another district  
 per (circle one) FRCrP 20, 21 or 40. Show District \_\_\_\_\_

☐ this is a reprosecution of charges  
 previously dismissed which were  
 dismissed on motion of:

☐ U.S. Atty ☐ Defense

☐ this prosecution relates to a  
 pending case involving this same  
 defendant. (Notice of Related  
 Case must still be filed with the  
 Clerk.)

☐ prior proceedings or appearance(s)  
 before U.S. Magistrate Judge  
 regarding this defendant were  
 recorded under
SHOW  
DOCKET NO.MAG. JUDGE  
CASE NO.Place of  
offense

County

CASE NO. \_\_\_\_\_

USA vs.

Defendant: David Papera

Address:

CR10

0105

☐ Interpreter Required Dialect: \_\_\_\_\_
Birth  
Date \_\_\_\_\_☐ Male☐ Alien☐ Female

(if applicable)

Social Security Number \_\_\_\_\_

## DEFENDANT

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☐ FPD☐ CJA☐ RET'D☐ Appointed on Target Letter
☐ This report amends AO 257 previously submitted

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	18 U.S.C. § 1344 (4)	Bank Fraud	2-4
	18 U.S.C. § 1957 (4)	Engaging in Monetary Transactions in Criminally Derived	5-6
		Property	
	Please see Attachment A for penalties		

ATTACHMENT A

Penalty:

**CR10 -0105**

Count One:

30 years Imprisonment, \$ 1,000,000 Fine, 5 years Supervised Release,  
\$ 100 Special Assessment.

Counts Two-Four:

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JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney

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NORTHERN DISTRICT OF CALIFORNIA

CRB

CR10 0105  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL OHAYON and  
DAVID PAPER, A

Defendants.

No.:

VIOLATIONS: 18 U.S.C. § 1349 – Conspiracy to  
Commit Bank Fraud; 18 U.S.C. § 1344 – Bank  
Fraud; 18 U.S.C. § 1957 – Engaging in  
Monetary Transactions in Criminally Derived  
Property; 18 U.S.C. § 2 – Aiding and Abetting

INDICTMENT

The Grand Jury charges:

INTRODUCTION

At all times relevant to this Indictment:

1. Michael OHAYON held a salesperson's license from the California Department  
of Real Estate. David PAPER, A was a real estate developer.

2. OHAYON and PAPER, A formed a partnership called Sage Creek Ranch LLC  
("Sage Creek LLC"), for the purpose of purchasing and developing a large Napa County property  
known as Sage Creek Ranch. Sage Creek Ranch consisted of sixteen undeveloped, mostly

INDICTMENT



1 contiguous parcels of land.

2 3. Sage Creek LLC originally purchased thirteen of the Sage Creek Ranch parcels.  
3 Shortly after doing so, OHAYON and PAPER A decided they needed to refinance the properties  
4 in order to obtain additional funds for construction and development.

5 4. Rather than obtaining a single commercial loan on behalf of Sage Creek LLC,  
6 OHAYON and PAPER A instead recruited "straw buyers," *i.e.*, individuals who would each  
7 obtain a residential loan to purchase a parcel from Sage Creek LLC, but who would in reality not  
8 make either down payments or mortgage payments on the property. OHAYON, with PAPER A's  
9 knowledge, told each straw buyer that Sage Creek LLC would make all down payments and all  
10 mortgage payments on each such straw buyer's loan. In this arrangement, nine straw buyers  
11 recruited by OHAYON and PAPER A became Sage Creek Ranch property owners on paper only,  
12 with no money of their own involved in the "purchase" transactions, and with Sage Creek LLC –  
13 the ostensible seller – effectively retaining control of each parcel.

14 5. In addition to the nine straw buyers who obtained loans for Sage Creek Ranch  
15 parcels, OHAYON and PAPER A also arranged for four other straw buyers to obtain loans to  
16 purchase – again, on paper only – properties separately owned by PAPER A-controlled entities.

17 6. To induce the thirteen straw buyers to obtain such residential loans in their names  
18 and thereby put their credit at risk, Sage Creek LLC paid the straw buyers between \$50,000 and  
19 \$100,000 each. OHAYON, who was a mortgage broker, told the straw buyers that this type of  
20 loan transaction was standard in the real estate industry.

21 7. Washington Mutual Bank ("Washington Mutual") loaned a total of approximately  
22 \$19.6 million to the thirteen straw buyers recruited by OHAYON and PAPER A. Washington  
23 Mutual was a financial institution within the meaning of 18 U.S.C. § 20, and was insured by the  
24 Federal Deposit Insurance Corporation.

25 8. Sage Creek LLC had accounts at Sequoia National Bank ("Sequoia National").  
26 Sequoia National was a financial institution within the meaning of 18 U.S.C. § 20, and was  
27 insured by the Federal Deposit Insurance Corporation.

28 9. California Mortgage and Realty was the lender on a multimillion-dollar home



1 purchased for the benefit of David PAPER. California Mortgage and Realty was a financial  
2 institution within the meaning of 31 U.S.C. § 5312(a)(2). The wires described in Counts Five  
3 and Six, below, were transmitted to California Mortgage and Realty's account with Bank of  
4 America, which was a financial institution within the meaning of 18 U.S.C. § 20 and 31 U.S.C.  
5 § 5312(a)(2), and which was insured by the Federal Deposit Insurance Corporation.

6 10. The escrows for all loans were handled by Old Republic Title Company in Napa,  
7 California.

8 THE SCHEME TO DEFRAUD

9 11. OHAYON and PAPER arranged for the Sonoma, California, branch of  
10 Washington Mutual to make individual residential loans to each straw buyer. OHAYON and  
11 PAPER knew that the straw buyers did not have income sufficient to support residential loans  
12 in the amounts sought from Washington Mutual. Therefore, as part of their scheme to defraud  
13 Washington Mutual, OHAYON, with PAPER's knowledge, created and submitted to  
14 Washington Mutual fraudulent loan applications in the names of the straw buyers, for the  
15 purpose of inducing Washington Mutual to make the loans to the straw buyers.

16 12. In furtherance of the scheme to defraud, OHAYON and PAPER submitted the  
17 straw buyers' loan applications to Washington Mutual, knowing the loan applications contained  
18 numerous misrepresentations, including some or all of the following:

- 19 (a) The straw buyer's income was overstated;  
20 (b) The straw buyer's assets were overstated (including fraudulent account  
21 statements purporting to show the overstated assets); and  
22 (c) The straw buyer claimed to be obtaining the loan for purchase of a primary  
23 residence, when the straw buyer was not, in fact, planning to live on the property.

24 13. In addition, in furtherance of the scheme to defraud, OHAYON and PAPER did  
25 not disclose to Washington Mutual that Sage Creek LLC, and not each straw buyer, would be  
26 making the down payments and mortgage payments on the loans.

27 14. After each straw buyer loan closed, OHAYON and PAPER, via Sage Creek  
28 LLC, used the fraudulently-obtained loan proceeds for various purposes, including paying the

1 straw buyers their promised \$50,000 to \$100,000 payments; purchasing other properties and  
 2 making other payments for the benefit of PAPER A and OHAYON (such as American Express  
 3 bills and mortgages on personal homes); and paying separate debts owed by PAPER A (such as  
 4 personal loans).

5 COUNT ONE: (18 U.S.C. §§ 1349 - Conspiracy to Commit Bank Fraud)

6 15. Paragraphs 1 through 14 of this Indictment are realleged as if fully set forth  
 7 herein.

8 16. Beginning at a time unknown to the Grand Jury, but no later than in or about  
 9 December 2003, and continuing through in or about November 2004, in the Northern District of  
 10 California and elsewhere, the defendants,

11 MICHAEL OHAYON  
 12 and  
 13 DAVID PAPER A,

14 conspired to devise and participate in a scheme and artifice to defraud Washington Mutual, and  
 15 to obtain money, funds, and credits owned by and under the custody or control of Washington  
 16 Mutual, by means of materially false and fraudulent pretenses, representations, promises, and  
 17 omissions, knowing that the pretenses, representations, promises, and omissions were false and  
 18 fraudulent when made, in violation of Title 18, United States Code, Section 1349.

19 COUNTS TWO THROUGH FOUR: (18 U.S.C. §§ 1344 and 2 – Bank Fraud; Aiding and  
 20 Abetting)

21 17. Paragraphs 1 through 14 of this Indictment are realleged as if fully set forth  
 22 herein.

23 18. On or about the dates set forth below, in the Northern District of California and  
 24 elsewhere, for the purpose of executing the material scheme to defraud Washington Mutual and  
 25 to obtain monies and funds owned by and under the custody and control Washington Mutual by  
 26 materially false and fraudulent pretenses, representations, promises, and omissions, the  
 27 defendants,

28 MICHAEL OHAYON  
 and  
 DAVID PAPER A,

1 did submit and cause to be submitted fraudulent loan applications in the names of "straw buyers"  
 2 as follows, and did aid and abet the same:

3			
4	TWO	7/16/2004	Loan application in the name of straw buyer M.A., falsely claiming income of \$25,000/month
5	THREE	9/30/2004	Loan application in the name of straw buyer J.H., falsely claiming income of \$46,000/month
6	FOUR	11/29/2004	Loan application in the name of straw buyer J.G., falsely claiming income of \$48,500/month
7			
8			

9 All in violation of Title 18, United States Code, Sections 1344 and 2.

10 COUNTS FIVE AND SIX: (18 U.S.C. §§ 1957 and 2 - Engaging in Monetary Transactions  
 11 in Criminally Derived Property; Aiding and Abetting)

12 19. Paragraphs 1 through 14 of this Indictment are realleged as if fully set forth  
 13 herein.

14 20. On or about the dates set forth below, in the Northern District of California and  
 15 elsewhere, the defendants,

16 MICHAEL OHAYON  
 17 and  
 DAVID PAPER,

18 did knowingly engage in monetary transactions, in and affecting interstate commerce, in  
 19 criminally derived property of a value greater than \$10,000, that was derived from specified  
 20 unlawful activity, namely, bank fraud, as alleged above in Counts Three and Four, in violation of  
 21 Title 18, United States Code, Section 1344, and did aid and abet the same, as follows:

22			
23	FIVE	10/18/2004	\$296,802.07 wire from Old Republic Title Company to California Mortgage and Realty, upon close of escrow on loan for straw buyer J.H.
24			
25	SIX	12/15/04	\$1,251,555.21 wire from Old Republic Title Company to California Mortgage and Realty, upon close of escrow on loan for straw buyer J.G.
26			
27			
28			

1 All in violation of Title 18, United States Code, Sections 1957 and 2.

2 Dated:

A TRUE BILL.

3 *February 11, 2010*

4 *Randa Benjamin*  
FOREPERSON

5 JOSEPH P. RUSSONIELLO  
United States Attorney

6 *Brian J. Stretch*  
7 BRIAN J. STRETCH  
8 Chief, Criminal Division

9 (Approved as to form: *Tami L. Brown*)  
AUSA BROWN